

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

DAVID E. HIGGINS,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 1:07CV277
)	
MICHAEL J. ASTRUE,)	
Commissioner of Social Security,)	
Defendant.)	

JUDGMENT

THIS MATTER is before the Court on a consent motion filed by Defendant, pursuant to sentence four of 42 U.S.C. § 405(g), requesting the Court to enter a judgment reversing Defendant’s decision and remanding the cause for further administrative proceedings. **Consent Motion for Reversal and Remand pursuant to Sentence Four of 42 U.S.C. § 405(g), filed January 24, 2008.**

On remand, the Commissioner will assign this matter to an Administrative Law Judge (“ALJ”) who will reassess Plaintiff’s residual functional capacity in consideration of the medical source opinions and in consideration of the ALJ’s findings of moderate limitations under the criteria set forth in 20 C.F.R. § 404.1520a(c). The ALJ will obtain vocational expert testimony as to the impact of any nonexertional limitations on Plaintiff’s capacity to perform other work at step five of the sequential evaluation process.

Pursuant to the power of this Court to enter a judgment reversing the Commissioner’s decision with remand in Social Security actions under sentence four of 42 U.S.C. § 405(g),

IT IS, THEREFORE, ORDERED that the Defendant’s motion is **ALLOWED**.

IT IS FURTHER ORDERED that the decision of the Commissioner denying benefits to the Plaintiff is **REVERSED** pursuant to sentence four of 42 U.S.C. § 405(g), and the case is hereby **REMANDED** to the Commissioner for further proceedings. *See generally Melkonyan v. Sullivan*, 501 U.S. 89, 96-102 (1991) (discussing district courts' remand of Social Security cases).

IT IS FURTHER ORDERED that Plaintiff's motion for summary judgment, filed January 7, 2008, is **DENIED WITHOUT PREJUDICE** as moot.

Signed: January 25, 2008

A handwritten signature in black ink, appearing to read "Lacy H. Thornburg", written over a horizontal line.

Lacy H. Thornburg
United States District Judge

